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Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10607158	6/25/2003	YAMADA, KOICHI	42P15793

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Commissioner for Patents

This is a supplemental Examiner's Answer. This Examiner answere has the missing signature conferee Scott Baderman.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/607,158
Filing Date: June 25, 2003
Appellant(s): YAMADA, KOICHI

MAILED

JUL 2 3 2007

Technology Center 2100

Koichi Yamada
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 25, 2007 appealing from the Office action mailed

December 22, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Mathur et al. (U.S. Patent 6,938,254)

Gibertson et al. (U.S. Patent 6,594,785)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-5, 7-17, 19-24, and 26 are rejected under 35 U.S.C. 102(a) as being anticipated by

Mathur U.S. Patent 6,938,254.

Claims 6,18, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Mathur

over Gilbertson U.S. Patent 6,594,785.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-5, 7-17, 19-24, and 26 are rejected under 35 U.S.C. 102(a) as being

anticipated by Mathur U.S. Patent 6,938,254.

In regard to claims 1, 13, and 20 Mathur discloses a method of terminating an affected

application program thread (Column 4; line 37-39), comprising: receiving an indication

of a hardware error associated with an application program thread (Column 4; line 56-

57 prompting the user is considered an indication); determining the application program

thread to be in a user operation mode (Column 4; line 57 when the user selects a

currently executing application program to be terminated this is considered a user

operation mode); and terminating the application program (Column 4; line 65-66).

In regard to claims 2, 14, and 21 Mathur discloses the method of claim 1, wherein the

terminating the application program further comprises:

determining the hardware error is a memory read error the memory read error being

associated with the application program thread (Column 4; line 50-52 when the current·

memory usage or availability is compared against threshold usage or availability that it

is deemed to be most critical, the system determines that the hardware error is a

memory read error).

In regard to claims 3, 15, and 22 Mathur discloses the method of claim 2, further

comprising: determining the memory read error is successfully contained (Column 5; .·

line 1-2 upon terminating the application which was the source of the hardware error,

Mathur successfully contains the memory read error) and (Figure 3; item 104).

In regard to claims 4, 16, and 23 Marthur discloses the method of claim 3, further

comprising: receiving information of whether the memory read error is contained   ··

(Column 4; line 65-67 when the user is informed that memory is critically low, and is

forced to choose which application should shut down, this is considered as an

information message).

In regard to claims 5, 17, 24 Marthur discloses the method of claim 2, further

comprising: receiving information of whether the hardware error occurred on a memory

read (Column 4; line 62-63 this is inherent because the message "system out of

memory dialog" during **program execution** means hardware error occurred during

reading the memory).

In regard to claims 7, 19, and 26 Mathur discloses the method of claim 1, further

comprising: confirming one or more registers associated with the application program

thread are consumed (Column 5; line 3-5 and all resources used by the program are

closed or freed this means that the register associated with the application thread is

consumed).

In regard to claim 8, Mathur discloses system comprising:

a processor (Figure 2; item 40) to perform an instruction from an operating system

and a memory component (Figure 2; item 42) to provide machine error information to

the operating system (Figure 2; item 44);the machine error information to include an

operation mode of the affected application program, (Column 4; line 62-63 "System out

of memory dialog" and Column 4; line 65 when the system informs the user that

memory is critically low it informs the user that the application is in the user mode).

the operating system to terminate the affected application program thread (Column 2;

line 37-38) upon determining the affected application program to be within a user

operation mode.

In regard to claim 9, Mathur discloses the system of claim 8, wherein the processor is to

receive an instruction (Column 3; line 37) from the operating system to terminate the

affected application program thread upon determining a memory read error has

occurred (Column 4; line 37-39).

In regard to claim 10, Mathur discloses the system of claim 9, wherein the processor is

to receive an instruction from the operating system to terminate (Column 2; line 37-38)

the affected application program thread upon determining the memory read error is

contained (Column 5; line 1-2 upon terminating the application which was the source of

the hardware error, Mathur successfully contains the memory read error) and (Figure 3;

item 104).

In regard to claim 11, Mathur discloses the system of claim 9, wherein the operating

system is to check the machine error information message to determine whether the

memory read error occurred (Column 5; line 10) and (Figure 3; Step 100) [by

comparing the system is checking the machine error information].

In regard to claim 12, Mathur discloses the system of claim 11, wherein the operating

system is to check the machine error information message to determine whether the

memory read error is contained (Column 6; line 4-5 when he message is sent to

terminate the error it means that the error has been contained).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6,18, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable

in view of Mathur over Gilbertson U.S. Patent 6,594,785.

In regard to claims 6, 18, and 25 Mathur discloses the limitation of parent claims

1, 13, and 20.

Mathur dos not disclose receiving information of poisoned data address

associated with the hardware error.

Gilbertson teaches information reception of poisoned data (abstract; " poisoning

of specific memory location") address associated with the hardware error (Column 23,

line 16-20). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate information reception of poisoned data address of

Gilbertson into the method, the machine, and the system of Mathur. A person of

ordinary skill in the art would have been motivated to make this modification because

Mathur discloses " it is conceivable that other programs might find themselves without

enough memory to continue. Even worse, it is possible that the operating system itself

could be unable to obtain needed memory, thereby causing a system crash". In addition

Gilbertson discloses " What is needed is a system and a method for recovering from an

error within a first partition (that would have he first program for example) without

affecting a second partition that shares main memory [operating system in the previous

disclosure] segments with the failing partition ".

(10) Response to Argument

Applicant's arguments with respect to claims 1-26 have been considered, but are

not persuasive.

Please refer to the above section of (9) Grounds of Rejection for details.

B. Claims Rejected Under 35 U.S.C § 102

As per claims 1-5,7-17,19-24, and 26 the Appellant argues that Mathur does not disclose a

hardware error in association with an application program thread. Examiner respectfully

disagrees.

Examiner points to (Column 4; lines 62-63) where Mathur discloses, "Prompting the user is

accomplished by way of a "System Out of Memory Dialog" This dialog box is a special, "*system*

modal" dialog box that essentially freezes the rest of the system.

The user is informed that memory is critically low, and is forced to choose which

applications should be shut down."

Examiner brings to the attention of the Appellant that a system freeze is equivalent to a hardware

error. It is hardware error for many reasons. First, it is well known that a system is hardware.

An error message that tells the user that the system is out of memory and freezes the rest of the

system is a notification of a hardware error (freezing).

Second, the Appellant defines in page 8 of the appeal brief a hardware error as "

error resulting from a malfunction of some physical component of the computer"

The Examiner considers a system freeze a physical malfunction. The Examiner also brings to the

attention of the Applicant that a physical component was never part of the claim language. As a

result, a system freeze reads on a hardware error.

C. Claims Rejected Under 35 U.S.C. § 103(a) in view of Mathur over Gilbertson

As per claims 6, 18, and 25 the Appellant argues that there is no motivation to

combine Mathur with Gilbertson, and that the two references propose

distinctly different solution for solving distinctly different technical problems.

Examiner respectfully disagrees. Mathur and Gilbertson both solve

errors related to memory. Mathur solves the memory related problem

by setting a threshold value for memory critical usage, and Gilbertson

does it by resetting memory locations. Additionally, disclosure from Gilbertson

in (Column 1; lines 46-50 *"relates to a system and method for isolating and handling faults within a failing partition in a manner that prevents the fault from creating a failure in a second non failing partition"*) clearly shows that Gilbertson field of invention corresponds to Mathur field of invention as Mathur discloses in (Column 2; lines 3-7 *"If any particular program makes high memory demands, it is conceivable that other programs might find themselves without enough memory to continue"*) and that is avoiding the spread of memory errors to affect other locations and programs.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Amine Riad

Conferees:

Robert Beausoliel